

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT A. SMILLIE,

Petitioner,

V.

HARRY WILSON, et al.,

Respondents.

Civil Action No. 06-220Erie

ORDER

This matter has been referred to United States Magistrate Judge Susan Paradise Baxter in accordance with the Magistrates Act, 28 U.S.C. §§ 636 (b)(1)(A) and (B), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation dated May 15, 2007, recommended that Respondents' Motion to Dismiss (Doc. 13) be granted, and that the Petition for a Writ of Habeas Corpus be dismissed as untimely and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file any objections. Service was made on all parties. Petitioner filed objections.

After *de novo* review of the documents in the case, together with the report and recommendation and Petitioner's objections, the following Order is entered:

AND NOW, to-wit, this 11th day of June, 2007, IT IS HEREBY ORDERED that Respondents' Motion to Dismiss (Doc. 13) be and hereby is GRANTED. The report and recommendation of Magistrate Judge Baxter dated May 15, 2007 be and hereby is adopted as the Opinion of this Court.

The Clerk of Court be and hereby is directed to mark this case as “closed.”

Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.
Senior United States District Judge

cc: The Honorable Susan Paradise Baxter
United States Magistrate Judge

all parties of record